REMARKS

The Office examined claims 1-28 and rejected claims 1-3, 18-20, and 27. Claims 4-17 are objected to. Claims 21-26 and 28 are allowed. This paper requests reconsideration of the rejected claims. Claims 1-28 remain pending.

Rejections under 35 USC §103

At section 3 of the Office action, claims 1-3, 18-20 and 27 are rejected under 35 USC §103 as being unpatentable over U.S. Pat. No. 6,816,471 to Ludwig *et al.* in view of U.S. Pat. No. 6,490,251 to Yin *et al.*

Claim 1 is to a method and recites performing a slow release in which an upper layer of a protocol for packet transmission removes from a buffer maintained by the upper layer the oldest packet in the buffer when the buffer is full and a new packet arrives, and does so independently of whether the oldest packet has been acknowledged by a radio layer, at a lower layer of the protocol; and performing a local acknowledgement in which the radio layer sends a local acknowledgement to the upper layer on the occurrence of a predetermined event.

The Office repeats the rejection of claim 1 from the previous Office action. The Office first asserts that col. 8, ll. 8-32, of Ludwig disclose the local acknowledgment, because "The reference discloses link reset corresponds to predetermined event and providing information to L3 layer corresponds to claimed step of sending local acknowledgement." The Office then concedes that Ludwig fails to disclose a step of slow release, but that Yin does, at col. 8, ll. 14-20, where, the Office asserts, "Yin discloses an upper layer removing from the buffer maintained by the upper layer the oldest packet in the buffer when the buffer is full and in IP the oldest packet gets dropped first independently of whether the oldest packet has been acknowledged or not."

Applicant argued in response to the same rejection of claim 1 in the previous Office action that first, Ludwig in fact fails to disclose the local acknowledgement. Applicant has also argued that since the Office relies on Ludwig for a teaching of local acknowledgement and relies on Ludwig in combination with Yin for slow release, the combination cannot teach slow release, since one cannot have slow release without local acknowledgement, and Ludwig does not teach local acknowledgement. Applicant will here confine arguments to the assertion by applicant that Ludwig does not teach local acknowledgement, since without it, there can be no teaching of slow release.

Applicant has conceded that Yin discloses some entity dropping a packet from a buffer because the queue length size exceeds the maximum queue size (MQS), but does not see where the entity does so independent of a local acknowledgement (since there is no local acknowledgement in Yin), and does not see that the entity doing so is an upper layer relative to a lower layer that receives data as packets from the upper layer and prepares the packets for wireless transmission, as required by claim 1. In response to applicant's arguments, the Office first simply reiterates that "[Ludwig] discloses link reset corresponds to predetermined event and providing information to L3 layer corresponds to claimed step of sending local acknowledgement." The Office then repeats the statement that Yin discloses an upper layer removing the oldest packet from a buffer when the buffer is full, and notes that "in IP the oldest packet gets dropped first independently of whether the oldest packet has been acknowledged or not."

Applicant respectfully insists that a fair reading of the claims requires that the references actually teach local acknowledgement in order for there to be a teaching of an upper layer removing from a buffer maintained by the upper layer the oldest packet in the buffer when the buffer is full and a new packet arrives, and doing so independently of whether there has

been local acknowledgement, i.e. whether or not the oldest packet has been acknowledged by a radio layer that receives data as packets from the upper layer and prepares the packets for wireless transmission. Yin discloses only removing the oldest packet from a buffer when the buffer is full.

Applicant sees that the Examiner insists that Ludwig discloses local acknowledgement, repeating the assertions made in the previous Office action that "the occurrence of 'reset conditions without a handover' is predetermined condition--- resulting into providing information to L3 layer corresponding to 'sending local acknowledgement." Applicant has argued and respectfully insists that Ludwig discloses at the cited location only that the L2 layer must always keep track of which L3 data units are included in which L2 data units, and that there is no teaching by Ludwig of the L2 layer (asserted by the Office action to correspond to the recited radio layer) sending a local acknowledgement to the upper layer on the occurrence of a predetermined event, whether the event is a 'reset conditions without a handover' or any other event. The Office has relied on col. 8, lines 8-32, and applicant respectfully insists there is simply no disclosure there of any communication from the L2 layer to the L3 layer. (The statement that "L3#2 was not fully acknowledged" means that all of the L2 data units conveying it were not all acknowledged to the L2 layer by the peer L2 layer, as is apparent from col. 7, ll. 23-30.) Applicant requests that the Office specifically point out, as required by 37 CFR 1.104 and the MPEP at section 706, where in Ludwig (or Yin) there is a teaching of a local acknowledgement in which the radio layer sends a local acknowledgement to the upper layer on the occurrence of a predetermined event, the local acknowledgement indicating to the upper layer that the radio layer has received from a peer radio layer an acknowledgement that a packet has been successfully transmitted, as recited claim 1. According to the

"Rules" (i.e. 37 CFR) at section 1.104(c)(2) (and, correspondingly, the MPEP, at 706):

> (2) In rejecting claims for want of novelty or for obviousness, the examiner must cite the best references at his or her command. When a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.

The same argument applies to claim 27.

In view of the shortcomings of Ludwig in respect to the local acknowledgment (and of the shortcomings of Yin and Ludwig in respect to the upper layer discarding a packet from a buffer it maintains as set out in the previous response), since such limitations are included in rejected claim 1 and 27 and all of the other rejected claims not argued, applicant respectfully requests that all the rejections under 35 USC §103 be reconsidered and withdrawn.

Conclusion

For all the foregoing reasons it is believed that all of the claims of the application are in condition for allowance and their passage to issue is earnestly solicited. Applicant's attorney urges the Examiner to call to discuss the present response if anything in the present response is unclear or unpersuasive.

Respectfully submitted,

3 October 2006
Date

James A. Retter
Registration No. 41,266

WARE, FRESSOLA, VAN DER SLUYS
& ADOLPHSON LLP
755 Main Street, P.O. Box 224
Monroe, CT 06468-0224

tel: (203) 261-1234
Cust. No.: 004955